

Board of Selectmen's Meeting Minutes
December 2, 2010
Harpswell Town Office
Approved on December 16, 2010

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At 5:00 p.m. the Board of Selectmen and Planning Board held a workshop with the Mitchell Field Implementation Committee re: ordinance amendments, including Consultant Mark Eyerman.

At 6:10 p.m. the Board met to handle administrative matters: the Board discussed its meeting schedule and scheduled a meeting with the Curtis Memorial Library Director; and the Board agreed to have the newly revised Fire & Rescue Committee begin meeting with its 2 (a 3rd position is still open) community members for strategic planning. Administrator Eiane explained that as a result of regulatory changes, the Town Clerk can no longer process passport applications since they handle certified birth records and Ms. Eiane recommended shifting this function to the Deputy Tax Collector if the Board determines the service should continue to be offered at the Town Office; the Board agreed to continuing the service and requested the proposal be implemented.

Selectmen Present: James S. Henderson, Mark E. Wallace and Elinor Multer

Staff Present: Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; William Wells, Code Enforcement Officer

Call to Order and Pledge of Allegiance: The meeting was called to order at 6:30 p.m.

The meeting was videotaped and broadcast live on Harpswell Community Television.

1. Adoption of the Agenda: Chairman Henderson moved, seconded by Selectman Wallace to adopt the agenda as amended by adding under 11. Acceptance of Right-of-Way Grant and Accept Gift from Bowdoin College; motion passed 3-0.

2. Public Comment: Elizabeth Davis noted that a petition in favor of Harpswell withdrawing from SAD 75 is being circulated. Ms. Davis asked the Board to begin exploring ways to educate Harpswell's youngest children under Town control and to charge the Education Advisory Committee with researching alternative educational arrangements and preparing its findings in a report by January 2012. Chairman Henderson noted the Board is still looking for applicants for the Education Advisory Committee.

3. Town Administrator's Report: Administrator Eiane reported she attended Cumberland County's 250th celebration on Tuesday with Shirley Thompson, the Town's ambassador. Cumberland County provided all the towns with town seals. Administrator Eiane announced the Town received a copy of the final environmental impact study on the Brunswick Naval Air Station and there is a link on the Town's website to the report. Administrator Eiane reflected on the grand reopening celebration of the Cribstone Bridge that took place on November 20. The event was well attended and full of community spirit. Administrator Eiane thanked the members of the organizing committee, Ralph Black, Marilyn Prince, Connie Barker and David Hackett. Chairman Henderson thanked Administrator Eiane for her work on the event.

4. Selectmen's Announcements: Selectman Wallace announced his family utilized Harpswell Neck's volunteer emergency services on Sunday and he thanked all the volunteers involved with emergency services for their dedication and hard work. Selectman Wallace asked everyone in the room to stand and clap as a thank you for all the volunteers. Selectman Multer wished everyone a happy Hanukkah. Chairman Henderson stated he received a letter from a citizen pointing out that there was an error in Chairman Henderson's letter he sent to the Commissioner of Education. Chairman Henderson noticed his error stating that 2 of the 4 Harpswell School Board members voted against the closing of West Harpswell School and sent the correction to the Anchor that it was one member that voted against the action.

5. Approval of the Minutes: Selectman Multer moved, seconded by Selectman Wallace to approve the minutes of 11/18; motion passed 3-0.

6. Consider Consent Agreement Re: Land Use Violation, Map 35, Lot 254: William Wells, Code Enforcement Officer, provided a brief history stating that the owner had an addition to the non-conforming structure built without a permit and that the addition consequently exceeds the allowable 30% expansion rule. Mr. Moreau, the property owner, appealed to the Board of Appeals and was denied; resulting in his request to the Board of Selectmen to allow him to keep a portion of the unlawful structure. Chairman Henderson stated that the proposal includes the owner removing the deck portion that is in violation and proposes to allow the owner to keep the 9 square feet of the finished area that is in violation. Mr. Moreau explained that he bought the property in 2005 and inquired of the permit process; realizing it was complicated due to the structure being non-conforming, he hired a contractor to obtain the permit and do the work. When he had the property on the market in December of 2009, he was contacted by the Code Office and informed that the renovations and additions were not permitted. Mr. Moreau worked with the Code Office and discovered the work couldn't be permitted on an after-the-fact basis as the additions exceeded the allowable 30% expansion. Mr. Moreau applied to the Board of Appeals and was denied; he asked the Board of Selectmen to accept the drafted consent agreement. Chairman Henderson questioned Mr. Moreau if he agrees to remove the 92 square foot deck portion in violation and that he wanted to keep the 9 square foot finished area; Mr. Moreau responded affirmatively. It was noted that, because Mr. Moreau applied for an after-the-fact permit he paid triple the permit fee when he applied in January. The Board discussed the information from the Town attorney and Assessing Office regarding a possible fine. While the Assessing Office applies a value of \$700 for the 9 square feet, Chairman Henderson stated the fine should be more to act as a deterrent. Selectman Wallace suggested \$1,000. Selectman Multer noted the five factors a court considers when determining a fine and stated that, in her opinion, only factor 5, market value, applies. Selectman Multer moved, seconded by Selectman Wallace to assess a \$1,000 fine; motion passed 2-1 (Chairman Henderson opposed). Chairman Henderson moved, seconded by Selectman Multer to authorize Bill Wells, Code Enforcement Officer, to enter into the consent agreement with Mr. Moreau as presented with the fine; motion passed 3-0.

7. Wharf Applications

- **Jeffrey Bills, 17 Winterberry Lane, Map 45, Lot 117:** Bill Wells, Code Enforcement Officer, stated this application for a wharf system is proposed for use by the subdivision and located on the community subdivision lot. Mr. Bills has to prove right, title or interest to apply for a permit and he supplied a legal document stating that he has a right to construct the wharf on that lot for shared use. Dick Raige, resident in the subdivision, stated that he was told that a dock association would apply for the permit, not an individual, and that there was a question of insurance. Chairman Henderson opened the public hearing at 7:05 p.m. Mr. Wells stated that the North Ledge Road Association's minutes reflect a vote that allows anyone in the association to apply for a permit with permission that all subdivision lot owners can use the wharf. Betsy Mace, subdivision resident, stated there is no legal dock association and that the North Ledges Road Association is a legal entity, not incorporated. The hearing was closed at 7:17 p.m. Selectman Multer moved to table the application and have the Town attorney review the information to determine if the applicant has the legal right, title or interest. Selectman Wallace seconded the motion and it passed 2-1 (Chairman Henderson opposed).
- **Charles & Joan Roberts, 29 Lower Rich Cove Rd., Map 55, Lot 21:** Bill Wells explained this application proposes to enlarge an existing system further seaward. Chairman Henderson opened and closed the hearing at 7:22 p.m. Chairman Henderson questioned if the right of someone who already has access to the water is equal to that of one who doesn't. Mr. Wells stated all wharf applications are reviewed by the Board under the Wharves and Weirs Act for navigation issues or injury to the rights of others. Chairman Henderson moved, seconded by Selectman Wallace to approve the application; passed 3-0.

8. Consider Request for Proposals for Ecological Survey on Town-owned Parcels: Mary Ann Nahf, chair of Conservation Commission, explained the Town, through the Conservation Commission, applied for a grant from the Davis Foundation and was awarded \$5,000. The grant is for an ecological survey on the five Town-owned parcels surrounding the Town Office and will identify sensitive areas ideal for conservation and areas suitable for future uses. Chairman Henderson moved, seconded by Selectman Multer to authorize the Town Administrator to send out the request for proposals for an ecological survey on the 5 Town-owned Mountain Road parcels; motion passed 3-0.

9. Carrying Place Assembly: Gareth Anderson commended Selectman Wallace for bringing attention to the Fire & Rescue volunteers. Mr. Anderson read his statement regarding the status of the Carrying Place Assembly (CPA) (attached as further reference). Chairman Henderson questioned if the Assembly was planning on introducing the same bill as a marker or an adjustment from last year since the deadline is fast approaching. Laddie Whidden explained the discrepancies surrounding the Town line. Sam Alexander stated the Assembly wants a meeting with the Board to discuss carrying forward the 2010 funds and he believes introducing a bill should wait until the next session as the seats will change. Mr. Alexander stated the 2009 Town Meeting passed an article authorizing the Selectman to act and they have not. Mr. Alexander has a modest proposal where the Carrying Place Assembly meets with the Board of Selectmen to develop a warrant article, for the 2011 Town Meeting, to rescind the 1998 decision and to prepare for the process. Mr. Alexander stated he would prefer to have a court-appointed 3-member panel to study the case details and make a recommendation to the State. It is time to have the Board of Selectmen be more active in the process, including authorizing the carry forward of the \$2,500 for use in 2011. Selectman Multer expressed concern that the Carrying Place Assembly made the case too complicated for the legislators last year and the case must be made simpler and present just the most salient facts. John Loyd stated the legislature needs to be approached more aggressively in the next months in advance to build up to the introduction of a bill but that the Board must be behind the bill or nothing will happen. Mr. Loyd stated that this is about correcting a mistake and not about bad government or demonizing Brunswick – it's best to work toward a resolve. Chairman Henderson suggested submitting last year's bill as a place holder to gain time to continue working on it and suggested approaching Brunswick to open discussions as well. Chairman Henderson stated he has been convinced that the historical Town line is as the CPA says but that is distinct from how to address the issue. C. Matthew Rich stated there must have been a survey in 1997/1998 that should be attacked in making the case now that it is incorrect. Chairman Henderson asked if the CPA wanted to submit the previous bill or have the Town do it; the CPA agreed that it be submitted by the Town. Chairman Henderson moved, seconded by Selectman Multer that the Board contact the State representative to reintroduce the most recent bill on the Town boundary issue; motion passed 3-0. Chairman Henderson will approach Representative Olsen. The Board tentatively scheduled a workshop for December 29 at 4:30 p.m.

10. Consider Public Participation Policy Revision: Chairman Henderson explained the Board has had a concern of how to address people's comments that may extend beyond the allowable 5 minute comment period. A change was made previously to the policy to allow someone to request to be on the agenda if the comments would exceed 5 minutes. The Board is trying to reach a solution that would allow issues to be brought to the Board level for discussion and allowing an appropriate time for comment. Chairman Henderson suggested that perhaps a separate meeting where people can come and talk is a solution. Concerning the policy, Chairman Henderson stated the Board is considering removing the option that allows someone to request to be on the agenda and instead if someone has an issue needing Board attention, it can be suggested to one of the Board members. C. Mathew Rich stated the policy has been amended 4 times this year with another proposed which can create confusion. Mr. Rich stated the 5 minute limit at the beginning of the meeting is appropriate as it should be used for announcement type items and that persons who need to speak for more than 5 minutes should be allowed to do so at the end of the agenda. Ann Standridge stated a lot can be said in 5 minutes and agreed with the 5 minute period at the beginning and if more time is needed, it should go at the end. Selectman Multer previously suggested moving the public comment period from the end to the front so the wait isn't so

long and she is convinced 5 minutes is enough time to allow someone's point to be made. The Board discussed whether an extended period at the end of the meeting should be allowed; Chairman Henderson didn't believe the extended period would be heavily used and Selectman Multer was opposed as anyone who has an issue can always call an individual selectman and speak for an unlimited amount of time. Elizabeth Davis believes it is important to allow the public to speak to the Board and most won't exceed 5 minutes. Chairman Henderson stated he was comfortable with the 5 minutes at the beginning and an extended period at the end; Selectman Multer suggested limiting the total period at the end for ½ hour. Chairman Henderson moved, seconded by Selectman Wallace to delete the agenda language and to add after the proposed deletion "An additional comment period of up to 15 minutes per speaker may be made available at the end of the regular meeting"; motion passed 2-1 (Selectman Multer opposed).

11. Other Business

- **Acceptance of Right-of-Way Grant:** Deputy Administrator Sawyer explained the Town applied for the Right-of-Way Discover grant to do research on the Hildreth Road Town-property and associated road and on Graveyard Point Landing. The State awarded the Town the \$2,500 for research on the Hildreth Road property and not Graveyard Point as ownership is clear at that site, with legal agreements. Chairman Henderson moved, seconded by Selectman Wallace to accept the \$2,500 grant for the research associated with parcel map 5, lot 51; motion passed 3-0.
- **Accept Gift from Bowdoin College:** Chairman Henderson moved, seconded by Selectman Wallace to accept \$8,500 from Bowdoin College in lieu of taxes, with thanks; motion passed 3-0.

12. Authorization of the Warrant: Selectman Wallace moved, seconded by Chairman Henderson to authorize warrant #78 in the amount of \$105,558.63; motion passed 3-0. Chairman Henderson moved, seconded by Selectman Multer to authorize warrant #43 in the amount of \$158.43; motion passed 2-0 (Selectman Wallace abstained). Payroll warrant #49 in the amount of \$13,709.61 was noted for the record.

13. Adjournment: The meeting adjourned by unanimous vote at 8:33 p.m.

Respectfully Submitted,

Terri-Lynn Sawyer

Attachments: Public Participation Policy
Carrying Place Assembly Letter

[Attachments are available at the Town Clerk's Office or by email at harpowell@town.harpowell.me.us]